

EBSA Fact Sheet Highlights 2025 Enforcement Activity

Gallagher

The Employee Benefits Security Administration (EBSA), the enforcement arm of the Department of Labor that regulates health and welfare benefits, issued its annual enforcement recovery [Fact Sheet](#) for fiscal year 2025. The report focuses on recovery efforts made by EBSA to restore plan benefits, including monetary awards, to participants. Almost \$1.4 billion was recovered with more than half resulting from the agency's enforcement actions.

EBSA oversees approximately 2.8 million health plans. Employees and their dependents can directly contact EBSA for assistance with any employment-based benefit. Repeated complaints about a particular plan, employer, or service provider can lead to enforcement actions. Below we look at some of the enforcement actions on health plans.

Fact Sheet

Over 222,000 complaints (up from 200,000 in 2024) were submitted to EBSA's informal complaint process leading to \$714.4 million in restored benefits (up from \$544.1 million in 2024). This year, the Fact Sheet also breaks down that \$67 million was recovered for No Surprises Act violations, though no specific details were provided. Below we focus on the highlighted health and welfare investigations that resulted in corrections and financial penalties.

COBRA Failures

EBSA helped an individual who lost his job get COBRA coverage for his dialysis treatment after the employer misrepresented their obligations under COBRA. The employer mistakenly left the former employee on active employee coverage for two months. When the employer recognized its mistake, it retroactively terminated the coverage and told the former employee he had missed his opportunity to elect COBRA. After contacting EBSA, the agency determined that the employer failed to send the COBRA notice timely. The employer was then required to offer COBRA retroactively to the former employee's date of termination, thereby covering this dialysis treatments.

EBSA's attention to COBRA failures is important. COBRA class action lawsuits have been ongoing for several years, and this enforcement action highlights the additional risk for COBRA failures through enforcement actions.

Unresponsive Plan

In another case, a participant had emergency brain surgery in Mexico and submitted the claims to the health plan. The health plan did not respond to the submitted claims, nor did the plan issue an explanation of benefits (EOB). The health plan was also unresponsive to EBSA's efforts. Ultimately, their inattentiveness to plan participants and EBSA resulted in the plan agreeing to reimburse \$215,000 for the claims.

In this resolution, it is unclear if the emergency brain surgery was covered internationally, but the plan was likely put in a position in which they felt they must pay the claims as a result of their unresponsiveness. Whether the reimbursement occurred out of the plan or the employer's general assets is unclear.

Insurers and TPAs

Employers were not the only target of enforcement actions.

- A life insurer was required to update their evidence of insurability standards because they were not compliant. No details were provided on what made the standards non-compliant. The insurer entered a settlement agreement with EBSA requiring the re-adjudication of 265 denied claims, totaling over \$11 million.
- A medical plan claims administrator had processed thousands of out-of-network emergency claims incorrectly, affecting 10,800 participants and 2,400 providers. The claims administrator has now established a trust fund to issue payments to participants and providers, so far payments exceed \$11 million.

These two investigations highlight EBSA's deep reach when it comes to health plans. Plan sponsors should also view these enforcement actions as demonstration that they must monitor their insurers and TPAs to ensure that they are complying not only with the terms of the plan documents but also with state and federal laws relating to their policies.

Action Steps

Here are some action steps employers can take to mitigate compliance risks highlighted by EBSA this year.

- Periodic audits of eligibility files can ensure that former employees are not kept on active coverage. Further, an employer's recordkeeping failure does not erase an individual's COBRA rights. [Tips to Avoiding Common COBRA Disputes](#)
- Do not ignore participants or EBSA when they contact the plan, and ensure publicly available plan information (SPDs, Form 5500s) contains accurate contact information for the plan administrator.
- Do not assume everything an insurer or TPA does on behalf of a plan is correct. Plan sponsors and ERISA fiduciaries should monitor their plan service providers to ensure that the service providers comply with plan documentation and the law. [ERISA Fiduciary Governance Toolkit for Health and Welfare Plans](#)

The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.